

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES MCDONALD, #236254

*

Plaintiff,

*

v.

* 2:06-CV-284-MHT

RICHARD ALLEN, *et al.*,

*

Defendants.

*

ANSWER

COME NOW, the Defendants, **Richard Allen and Bob Riley**, by and through Attorney General Troy King, via undersigned counsel, and in accordance with this Honorable Court's Order of April 14, 2006, answer the Plaintiff's Complaint as follows:

1. Defendants deny the allegations in Grounds one (1) through three (3) of the Plaintiff's Complaint.
2. Defendants admit that the Plaintiff is incarcerated at Easterling Correctional Facility.
3. Defendants admit that Governor Bob Riley is the Governor of the State of Alabama.
4. Defendants admit that Richard Allen is the Commissioner of the Alabama State Department of Corrections.
5. Defendants admit that they were employed by the State of Alabama and while acting in their official capacities, abided by

the laws of Alabama and the United States, but deny acting under the color of state law in order to deprive Plaintiff of his constitutional rights as he alleges in the Plaintiff's Complaint.

6. Defendants deny all material allegations not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. The Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. The Plaintiff lacks standing to bring this suit.
3. Defendants assert the defense of sovereign immunity.
4. Defendants assert the defense of qualified immunity.
5. Defendants cannot be held personally liable for a 42 U.S.C. § 1983 civil action under the theory of Respondeat Superior.
6. This Court lacks subject matter jurisdiction.

Respectfully Submitted,

Troy King (KIN047)
Attorney General

s/ *J. Matt Bledsoe*
J. Matt Bledsoe (BLE006)
Assistant Attorney General

ADDRESS OF COUNSEL:

Office of the Attorney General
11 South Union Street
Montgomery, AL 36130
(334) 342-7443
(334) 242-2433 (fax)

CERTIFICATE OF SERVICE

I hereby certify that I have on this 24th day of May 2006, served a copy of the foregoing upon the Plaintiff, by placing same in the United States Mail, postage prepaid and properly addressed as follows:

James McDonald, #236354
Easterling Correctional Facility
200 Wallace Drive
Clio, AL 36017

s/J. Matt Bledsoe

J. Matt Bledsoe (BLE 006)
Assistant Attorney General